

04



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: David Gregory, Acting Director of Environmental Services *[Signature]*
Bob Briggs, Finance Manager, Environmental Services

DATE: May 17, 2005

SUBJECT: Purchase Agreement Authorization
Owners: Michael A. Tesinsky and John P. Tesinsky
Parcel I.D. No. 20-21-31-5CB-0000-008B
Consumers/Lake Hayes Water Transmission Main project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel I.D. No. 20-21-31-5CB-0000-008B. The parcel is required for the Consumers/Lake Hayes Water Transmission Main project. The purchase price is \$18,000.00, inclusive of fees and costs incurred by the property owners.

I THE PROPERTY

A. Location Data

The property is located on the east side of Aloma Avenue, approximately 1,000 feet south of Chapman Road in unincorporated Seminole County.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)

B. Address

2385 Aloma Avenue (State Road 426)
Oviedo, Florida 32765

C. Description

The subject parent tract consists of 69,696 sf improved with a 3,000 sf metal building that was constructed in 1975. This building is being utilized for the repair of automobiles.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-118 on July 22, 2003 and First Amended Resolution No. 2004-R-74 on April 13, 2004, authorizing the acquisition of the referenced property, and finding that the Consumers/Lake Hayes Water Transmission Main project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition is a 30' wide permanent utility and drainage easement that runs within the existing 110' wide Florida Power & Light (FP&L) electric transmission line easement.

IV APPRAISED VALUE

The County's appraised value amount, as of December 22, 2003, was \$8,400.00. The County's appraisal was prepared by HDR Acquisition Services, Inc., and was approved by the County's MAI designated staff appraiser.

V BINDING OFFER/NEGOTIATIONS

On September 28, 2004, the BCC authorized a binding written offer in the amount of \$9,700.00. Thereafter, County staff negotiated this contingent settlement agreement with the property owners and their attorney in the amount of \$18,000.00 inclusive of all fees and costs.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This proposed settlement amount, although \$8,300.00 more than the County's binding written offer amount, is reasonable under the circumstances inherent in the condemnation process. If this property proceeds to condemnation, litigation costs and costs to update appraisals on both sides will have to be paid by the County. The cost of each appraisal would probably be more than the value found for the easement. The fact that the valuation is an easement of fairly low value does not negate the fact that it requires a rather detailed analysis.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$18,000.00, inclusive of fees and costs incurred by the property owners.

LV/krc

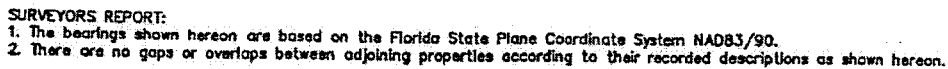
Attachments:


Location Map (Exhibit A)
Sketch (Exhibit B)
Purchase Agreement (Exhibit C)

P:\USERS\LV\OUI\SETTLEMENT MEMO\CONSUMERS LAKE HAYES\AGENDA ITEM TESINSKY 008B.DOC



The South 30 feet of Lot 8, SLAVA FARMS as recorded in Plat Book 6, Page 97 of the Public Records of Seminole County, Florida of a certain parcel described in Official Records Book 1046, Page 679 of the Public Records of Seminole County, Florida, CONTAINING 7669 square feet or 0.18 acres, more or less.



Legal Description	Date:	950305
FOR	Jan. 30, 2002 CS	
INWOOD CONSULTING ENGINEERS	Job No.: 46593057	Scale: 1" = 150'
C00003	CH. 61G17-8, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY.	
	 <p>SOUTHEASTERN SURVEYING & MAPPING CORP. 324 North Orlando Avenue Maitland, Florida 32751-4702 (407) 647-8898 CERT. NO. LB2108 e-mail: info@southeastsurveying.com</p> <p><i>Gary B. Krick</i></p> <p>GARY B. KRICK REGISTERED LAND SURVEYOR No. 4345</p>	

**PURCHASE AGREEMENT
PERMANENT UTILITY AND DRAINAGE EASEMENT**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2005, by and between MICHAEL A. TESINSKY AND JOHN P. TESINSKY, whose address is 2385 West S. R. 426, Oviedo, Florida 32765, hereinafter referred to as "OWNER," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for a utility project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, OWNER hereby agrees to sell and COUNTY hereby agrees to buy the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

See attached Exhibit "A"

Parcel I. D. Number: 20-21-31-5CB-0000-008B

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above described property of the above referenced project by Permanent Utility and Drainage Easement, free of liens and encumbrances, unto COUNTY for the sum of EIGHTEEN THOUSAND AND NO/100 DOLLARS (\$18,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever.

(b) COUNTY shall be responsible for the following closing costs: recording fees for said easement and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice and all expenses to record instruments necessary to provide title unto COUNTY.

(c) OWNER covenants that there are no real estate commissions due any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNER.

EXHIBIT C

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II., above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) OWNER agrees to vacate and surrender possession of the property upon the date of delivery of the instruments and closing of this Agreement. COUNTY may, but is not obligated to, extend possession of the property by OWNER; provided, however, that such approval will be evidenced by a written document of equal dignity herewith. During the period from the date of the execution of this Agreement by both parties and the closing, OWNER agrees to exercise diligent care in protecting the property from theft and vandalism.

(c) Any and all encroachments existing upon the property, (except as defined as consistent uses in the instrument of conveyance and those improvements included in the purchase price), are to be removed by the OWNER at the expense of the OWNER prior to closing.

(d) OWNER warrants that there are no facts known to OWNER materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(e) The instrument(s) of conveyance to be utilized at closing shall also include the covenant of further assurances.

(f) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable.

(g) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER, may however, assert OWNER's rights against other claimants in apportionment proceedings.

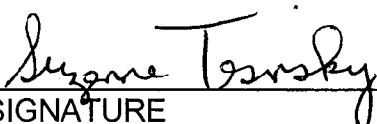
(i) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have non-exclusive possession of the property described in Exhibit A to this Agreement. The right of entry shall commence ninety (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Aside from this Agreement, no further notification of COUNTY's intent to enter the property is required. This right of entry is for the purpose of construction of the Consumers/Lake Hayes Water Transmission Main Project and so that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNER will not receive from COUNTY any additional compensation beyond that set forth in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

(j) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

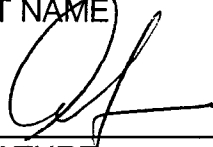
(k) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

WITNESSES:


SIGNATURE

SUZANNE TESINSKY
PRINT NAME


SIGNATURE

ANNA M. ROMERO
PRINT NAME

PROPERTY OWNER(S):


MICHAEL A. TESINSKY

ADDRESS: 2385 West S. R. 426
Oviedo, FL 32765

Marlene E. Tesinsky
SIGNATURE

Marlene E. Tesinsky
PRINT NAME

Robert J. Bellhorn
SIGNATURE

ROBERT J. BELLHORN
PRINT NAME

John P. Tesinsky
JOHN P. TESINSKY

ADDRESS: 2385 West S. R. 426
Oviedo, FL 32765

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
County Commissioners at its _____,
2005 regular meeting.

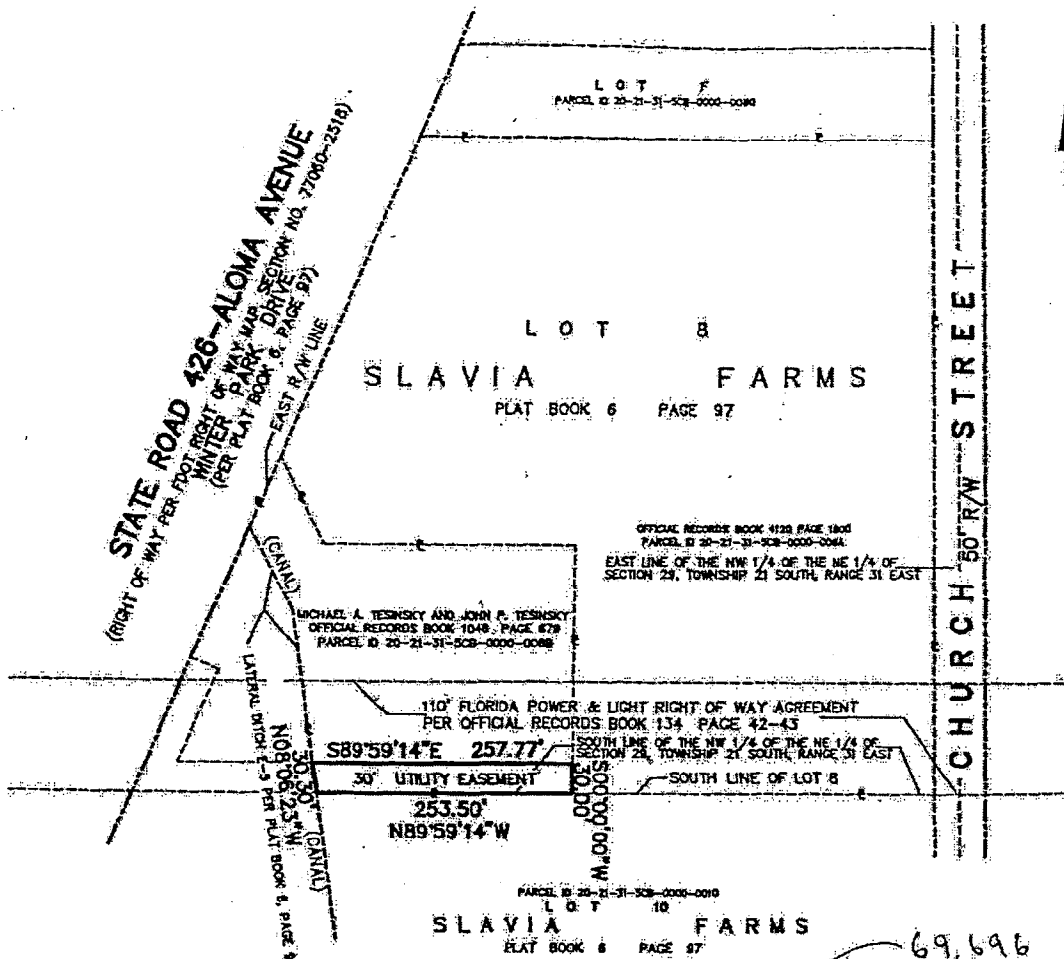
[Signature]
County Attorney

LV/ke
04/28/05

P:\USERS\KCURRY\MY DOCUMENTS\IACQ\CONSUMERS LAKE HAYES\TESINSKY PA.DOC

LEGAL DESCRIPTION

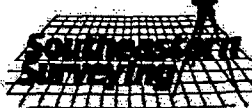
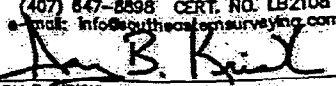
The South 30 feet of Lot 8, SLAVIA FARMS is recorded in Plat Book 6, Page 97 of the Public Records of Seminole County, Florida of a certain parcel described in Official Records Book 1046, Page 679 of the Public Records of Seminole County, Florida, CONTAINING 7669 square feet or 0.18 acres, more or less.



69,696 TOTAL PARENT TRACT= 397,778 SQUARE FEET OR 9.13 ACRES, ±
 TAKE TRACT= 7669 SQUARE FEET OR 0.18 ACRES, ±
 REMAINING TRACT= 390,109 SQUARE FEET OR 8.95 ACRES, ±

SURVEYOR'S REPORT:

1. The bearings shown hereon are based on the Florida State Plane Coordinate System NAD83/90.
2. There are no gaps or overlaps between adjoining properties according to their recorded descriptions as shown hereon.

Legal Description	Date: Jan. 30, 2002 CS	4659305
FOR INWOOD CONSULTING ENGINEERS	Job No.: 46593057 Scale: 1" = 150'	
600003	CH. 61G17-8, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY.	SOUTHEASTERN SURVEYING & MAPPING CORP. 324 North Orlando Avenue Maitland, Florida 32751-4702 (407) 847-8898 CERT. NO. LB2108 e-mail: info@southeasternsurveying.com  GARY B. KRICK REGISTERED LAND SURVEYOR NO. 4245